IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 33425 of 2007(D)

PETITIONER:

MUTHANIKKATT ADIPARAMBIL MOHAMMEDKUTTY,
S/O.KUNHALAVI, MEMBER NO.12981, THALAKKADATHUR
DESOSM, CHERIYAMUNDAM VILLAGE, THALAKKADATHUR P.O.
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

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1. THE GENERAL MANAGER, TIRUR URBAN
CO-OPERATIVE BANK LTD., NO.F.181, TIRUR.

2. THE ASST.REGISTRAR, TIRUR URBAN
CO-OPERATIVE BANK, TIRUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.33425 OF 2007

Dated this the 13th day of November, 2007

JUDGMENT

Having regard to the nature of the order being issued hereunder, notice to the respondents are dispensed with.

2. The petitioner, a debtor of the first respondent Urban Bank suffered an arbitration award under the Kerala Co-operative Societies Act. He challenged it before the Co-operative Tribunal. The Tribunal noticed that the plea of the petitioner that the arbitration case is premature is unsustainable. It was so held because the loan was recalled since there was default and the arbitration case was consequentially filed. The only plea of the petitioner, that was apparently pressed for consideration before the Tribunal, was on the rate of interest. The Tribunal found that no circumstances were shown for reducing the rate of interest and that the transaction was a loan for business purpose. However, the Tribunal was benevolent to reduce the rate of interest and fixed it at 16%. Having heard learned

counsel for the petitioner and having perused the materials on record, I find no jurisdictional error or legal infirmity in the impugned orders. The writ petition fails.

3. At this stage, learned counsel for the petitioner requested that the petitioner may be given a breathing time to pay off the amounts. There is nothing on record to show that executive proceedings have commenced.

In the result, while affirming the impugned orders, this writ petition is disposed of directing that distress action, even if proceedings are invoked, shall not be enforced for a period of four months from now, provided the petitioner pays all the accumulated instalments in terms of Ext.P3 on or before 13.12.2007 and continues to remit the remaining instalments in terms of the directions contained in Ext.P3 regarding instalments.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.